

<b>Title:</b> The Food Law Code of Practice Review <b>IA No:</b> FOODSA0074  <b>Lead department or agency:</b> Food Standards Agency <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 01/03/2013		
	<b>Stage:</b> Consultation		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Other		
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**Summary: Intervention and Options** **RPC Opinion:** RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0.96m	£-1.02m	£-0.96m	Yes/No
			In/Out/zero net cost

**What is the problem under consideration? Why is government intervention necessary?**  
In the UK, local authorities are responsible for monitoring compliance of establishments with, and enforcement of, the main body of food law (including rules on food hygiene and safety, and on food standards). Direction and guidance on the approach that local authority food law regulatory services should take is given in a statutory Code of Practice. This Code, which sets out instructions and criteria to which the authorities must have regard, requires periodic revision to ensure that it reflects the current enforcement practices and supports local authorities' delivery of their official control obligations and that enforcement is effective, consistent, risk based and proportionate.

**What are the policy objectives and the intended effects?**  
The objectives are to:  
(i): clarify and update the risk descriptors used to assign intervention frequency scores at food establishments, thereby enhancing consistency of approach by local authority officers in intervention scoring;  
(ii): improve the effectiveness in enforcement by redistributing the minimum intervention frequency of a number of establishments, which would allow local authorities to focus on those establishments that are persistently non-compliant with food law; and  
(iii). To enable a single competent authority to take on all enforcement and control activities at an establishment where possible, thereby reducing need for dual enforcement.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
Option 1: Do nothing, the Code would not be amended and the current system would continue  
  
Option 2: Improve efficiency in delivery through amendments to the existing scheme within the Code of Practice to reduce the regulatory burden and extend existing flexibilities.  
Option 2 is **preferred** as it would improve the effectiveness and efficiency of the delivery of interventions and enforcement compared to the current situation.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> Month/Year					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b>		<b>Non-traded:</b>

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Chief Executive:



Date:

19/6/13

# Summary: Analysis & Evidence

# Policy Option 1

Description: Do nothing, the Code would not be amended and the current system would continue

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: n/a

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	n/a	n/a	n/a

### Description and scale of key monetised costs by 'main affected groups'

None. This is the baseline which all other options are appraised against

### Other key non-monetised costs by 'main affected groups'

None. This is the baseline which all other options are appraised against

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	n/a	n/a	n/a

### Description and scale of key monetised benefits by 'main affected groups'

None. This is the baseline which all other options are appraised against

### Other key non-monetised benefits by 'main affected groups'

None. This is the baseline which all other options are appraised against

Key assumptions/sensitivities/risks

Do Nothing represents the current policy situation, without intervention

Discount rate (%)

3.5

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: n/a	Benefits: n/a	Net: n/a	Yes/No	IN/OUT/Zero net cost

## Summary: Analysis & Evidence

## Policy Option 2

Description: Improve efficiency in delivery through the amendments to the existing scheme within the Code of Practice to reduce the regulatory burden and extend existing flexibilities

### FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)			
			Low: Optional	High: Optional	Best Estimate: £0.96	
<b>COSTS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Cost (Present Value)</b>	
Low	Optional		Optional		<b>Optional</b>	
High	Optional		Optional		<b>Optional</b>	
Best Estimate	£0.06		£0		<b>£0.06</b>	
<b>Description and scale of key monetised costs by 'main affected groups'</b> One-Off Familiarisation costs to Local Authorities: £55,426						
<b>Other key non-monetised costs by 'main affected groups'</b> None						
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>		<b>Total Benefit (Present Value)</b>	
Low	Optional		Optional		<b>Optional</b>	
High	Optional		Optional		<b>Optional</b>	
Best Estimate	£0		£1.02		<b>£1.02</b>	
<b>Description and scale of key monetised benefits by 'main affected groups'</b> Annual time savings to Industry from lower frequency of interventions of low risk establishments: £1,023,224.						
<b>Other key non-monetised benefits by 'main affected groups'</b> Efficiency benefit to Local Authorities from more efficient resource allocation						
Key assumptions/sensitivities/risks					Discount rate (%)	3.5

### BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0	Benefits: £1.02	Net: £-1.02	Yes	OUT

# Evidence Base (for summary sheets)

## Problem under consideration and rationale for intervention

In the UK, local authorities (LAs) are responsible for the verification of compliance with food law in food business establishments. Direction and guidance on the approach that LAs should take is in the statutory Code of Practice (Code). This Code sets out instructions and criteria which LAs must have regard to when discharging their duties. It requires periodic revisions to ensure that it reflects current enforcement policies so that enforcement action taken by officers is effective, consistent and proportionate.

The review process is being undertaken in a staged approach and is the second of three planned revisions. The Food Standards Agency (FSA) has identified a number of improvements required that can be undertaken now and will underpin further more significant revisions. The review process, therefore, is a long term project with changes planned in 2014. This impact assessment only covers two of those areas, which the (FSA) has considered to be crucial to implement now which will improve operation efficacy in relation to the allocation of resources in the delivery of official controls.

## Policy Objectives

The overall objective for this initiative is to enable LAs to adopt a flexible approach to enforcement while maintaining a high level of public health protection. Furthermore, the proposed initiative would also have an impact on the economic cost and benefit of the whole food production industry, including small and medium size enterprises (SME) such as retailers.

The specific objective is to update and revise the Code to:

- I. clarify and update the risk descriptors used to assign intervention frequency scores at food establishments, thereby enhancing consistency of approach by local authority officers in intervention scoring;
- II. improve the effectiveness in enforcement by redistributing the minimum intervention frequency of a number of establishments, which would allow local authorities to focus on those establishments that are persistently non-compliant with food law; and
- III. To enable a single competent authority to take on all enforcement and control activities at an establishment where possible, thereby reducing need for dual enforcement.

The underlying drivers are different for the proposed amendments, as explained below:

- I. The Annex 5 of the Code is a fundamental for the delivery of official controls activities by local authorities and is the primary tool used to quantifying the risk presented by a food establishment. Due to the changing nature of the food industry it is imperative that the system employed reflects current working practices and reduces any incidents that result in food industry being subject to inconsistent approach by the regulators.
- II. Due to increasing financial pressures LA are forced to focus their available resources at those food establishments that present the greatest risk to public health. The FSA will amend Annex 5 to reduce the minimum intervention frequency for a proportion of the lower risk establishments, allowing better targeting of resources and reducing the regulatory burden on compliant establishments.
- III. Under the current arrangements an establishment can be subject to enforcement activity both the FSA and an LA if it is involved in certain activities resulting in an unnecessary regulatory burden. To reduce the need for establishments to be subject to dual enforcement by separate bodies, the FSA will take over the enforcement of all activities where possible with the consent of all parties.

## Proposed Amendment 1: Risk assessment

1. There are approximately 600,000<sup>1</sup> food establishments in the UK. These include primary producers, manufacturers, processors, packers, importers, distributors, wholesalers, retailers, restaurants and caterers. These establishments are all subject to the requirements of food law. Food law that applies in the UK originates at European Community level, and this includes rules on food hygiene and food standards.
2. Responsibility in the UK for verifying compliance with food law in food establishments is divided between different competent authorities. For the most part, this responsibility is delegated by the Food Standards Agency (FSA) as the Central Competent Authority to the 434 local authorities in the UK. In undertaking these responsibilities, LAs must comply with the requirements of Regulation (EC) No. 882/2004<sup>2</sup> on official controls. This Regulation sets out the general approach that must be taken and the principles that must be adopted to undertake regular official controls (checks to ensure compliance with food law) on the basis of risk.
3. In carrying out their duties, LAs must have regard to the direction given by the FSA in the Code (separate but parallel Codes apply in England, Scotland, Wales and Northern Ireland) when discharging their duties. The current Code for England, the Food Law Code of Practice (England), was published in 2012<sup>3</sup>.
4. The Code includes food establishment intervention-rating schemes - one for food hygiene and one for food standards (composition, chemical contaminations, adulteration and labelling) - for determining the frequency for interventions at food establishment's using risk assessment criteria. These criteria include: the potential hazard or potential risk; the level of (current) compliance by the establishments and, the confidence in management and in control systems. These individual criteria are "scored" and the collective total is used to assign a "risk category" to an establishment, which then determines the minimum intervention frequency it should receive (see Figure 1 below).
5. The FSA has identified inconsistencies in the application of intervention ratings, in that establishments carrying out similar activities are being subject to different intervention frequencies, depending on how LAs interpret the current intervention ratings. This situation has generated two main concerns:
  - I. food safety may be jeopardized, if risks criteria are not properly addressed; and
  - II. unfair competition may occur, if similar activities are subject to different interpretation by different LAs.
6. The FSA, therefore, intends to revise this scheme in two ways:
  - I. updating and clarifying the text used to describe the level of risk; and
  - II. Redistributing the type of establishment's allocated to different risk categories.

### **Updating and clarifying the text in relation to food establishment intervention rating scheme for hygiene:**

7. It has become apparent that the current descriptors are subject to a range of interpretations leading to LAs assigning different intervention frequencies to food establishments presenting similar risks. This inconsistent approach has been highlighted by the food industry. The FSA has delivered consistency training to all local authorities within the UK over the last 5 years and during this process a number of conflicting interpretations have been presented.
8. For example:

The intervention rating scheme requires that the level of risk within an establishment should be higher when establishments are involved in certain high risk methods of processing. The interpretation of what constitutes a higher risk method of processing can vary between officers and LAs. The revised descriptors should focus the officers on those:

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<sup>1</sup> <http://www.food.gov.uk/multimedia/pdfs/board/fsa121106.pdf>

<sup>2</sup> <http://www.food.gov.uk/multimedia/pdfs/8822004eceregulation.pdf>

<sup>3</sup> <http://www.food.gov.uk/enforcement/enforcework/foodlawcop/copengland/>

*“that undertake a specific method of processing ( including those that extend the shelf life of the product) that has the potential to increase the risk to public health beyond that of the normal cooking or storage”*

9. These clarifications would improve the harmonised interpretation of existing definitions, and reduce the level of inconsistencies in the scoring. The proposed changes to the descriptors will assist local authority officers undertaking official controls to profile the potential risk a food establishments presents to public health. This profiling allows local authorities to assign Intervention frequency based on individual circumstances within a establishments.
10. The FSA has already committed to providing consistency training to all local authorities within the UK over the last 5 years and will continue to do so in the future. The feedback received during this training has been an invaluable source of information that has informed the intended revisions. The proposed amendments also seek to modernise the language used to better describe the more complex nature of the food industry and provide illustrative examples which reflect situation that local authority officers are likely to encounter.
11. The proposed descriptors would be applied at the next scheduled intervention of the food establishments; it is not expected that LA would need to retrospectively apply this to establishments who have already been assigned an intervention rating.

**Redistribute the type of establishments allocated to different risk categories for hygiene:**

Existing situation

12. The Annex 5 risk intervention categories are based upon the collective score of the various risk assessment criteria. This enables LAs to determine a minimum intervention frequency that the establishment needs to be subject to within their area.
13. To ensure that public protection is maintained during a time when resources are limited the FSA need to make changes to the Code that will ensure that resources are directed at those establishments that present the greater risk.
14. The FSA intends to address this need to refine the allocation of risk category to a establishment to allow for increased targeting of resources. The current numerical distribution (see Figure 1) of the risk bandings results in local authorities assigning large volume of food establishments with the risk category of “C”. This results in establishments that are broadly compliant with food law being assigned the same frequency of intervention as those that struggle to meet legal requirements.

**Figure 1: Current Food Hygiene Intervention Frequency**

Category	Score	Minimum intervention frequency
A	92 or higher	At least every six months
B	72 to 91	At least every 12 months
C	42 to 71	At least every 18 months
D	31 to 41	at least every 24 months
E	0 to 30	A programme of alternative enforcement strategies or interventions every three years

15. LAs are under increasing resource pressure to deliver their official control programme. Given that these resources are finite, the proposals will allow them a smarter way of allocating resources to those establishments that are in the higher risk category.
16. Anecdotal evidence from LAs is that the current break down in risk categories in Annex 5 is not functioning as well as intended, with excessively large amounts of establishments being allocated within the “C” category and its broadly range including compliant establishments struggling to move

to one of the lower risk categories (“D or E”). This amendment to the scoring will increase the recognition given to those food establishments that are broadly compliant with food safety legislation.

17. This evidence is supported by the analysis with this document below which was based on the Local Authority Enforcement Monitoring System returns data for 2010/2011. Under the current distribution an estimated 230,107 food establishments within the UK are currently categorised within the medium risk category of “C”, with only 99,171 current with the “D” band.

Proposed situation

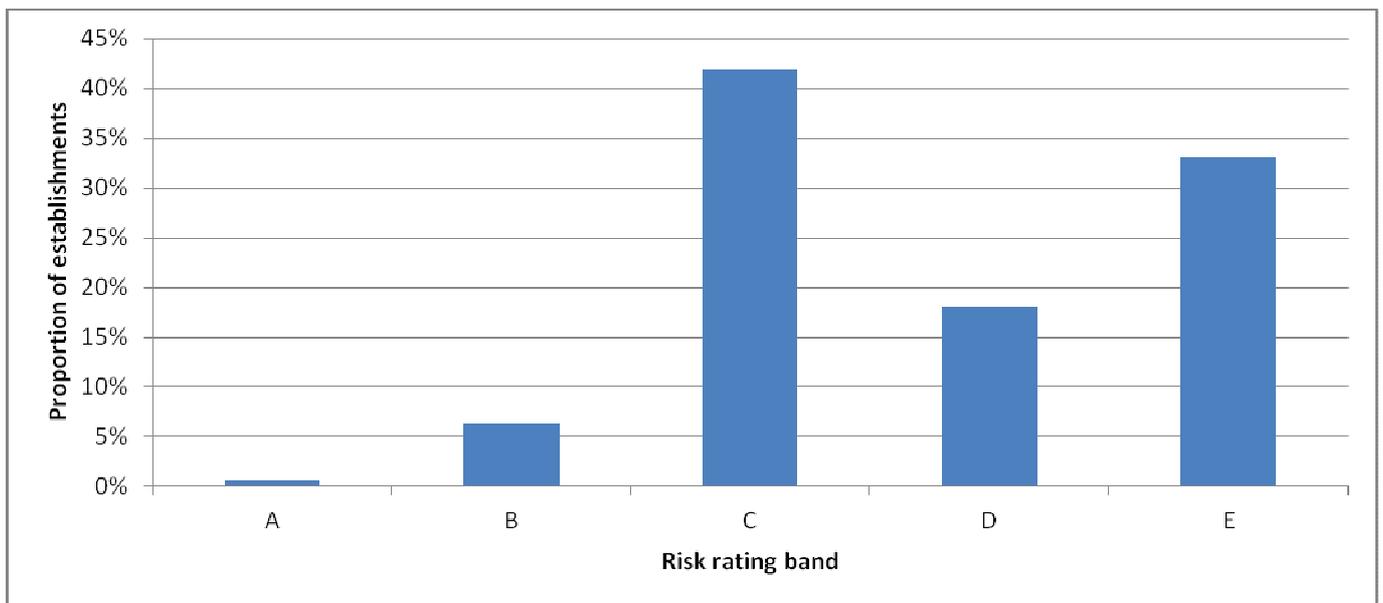
- 18. The FSA is proposing to reduce the width of the “C” category and increase the width of the “D” category which would redistribute a number of establishments to the lower risk category.
- 19. The proposed amendment to the bands would, for example, reduce the intervention frequency for a subset of the establishment currently inspected every 18 months to a frequency of every 24 months, will allow local authorities to direct their resources in targeting high risk establishments. (see Figure 2).

**Figure 2: Proposed Food Hygiene Intervention Frequency**

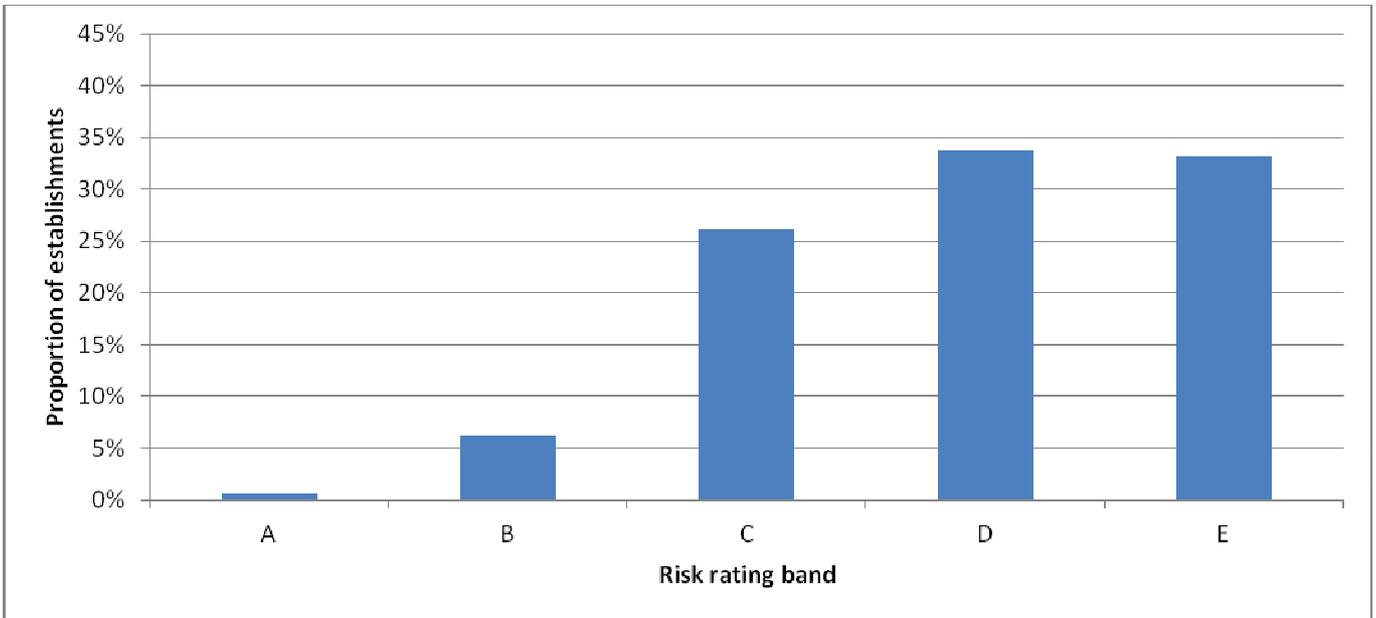
Category	Score	Minimum intervention frequency
A	92 or higher	At least every six months
B	72 to 91	At least every 12 months
C	52 to 71	At least every 18 months
D	31 to 51	at least every 24 months
E	0 to 30	A programme of alternative enforcement strategies or interventions every three years

20. The two tables below show the current distribution of food establishments by their risk category (see Figure 3) under the existing scheme and the distribution under the proposed scheme (see Figure 4). A revised upper limit to the “D” banding would give a more even distribution across the three lower risk category bandings.

**Figure 3: the current distribution of food establishments by their risk category**



**Figure 4: the proposed distribution of food establishments by their risk category**

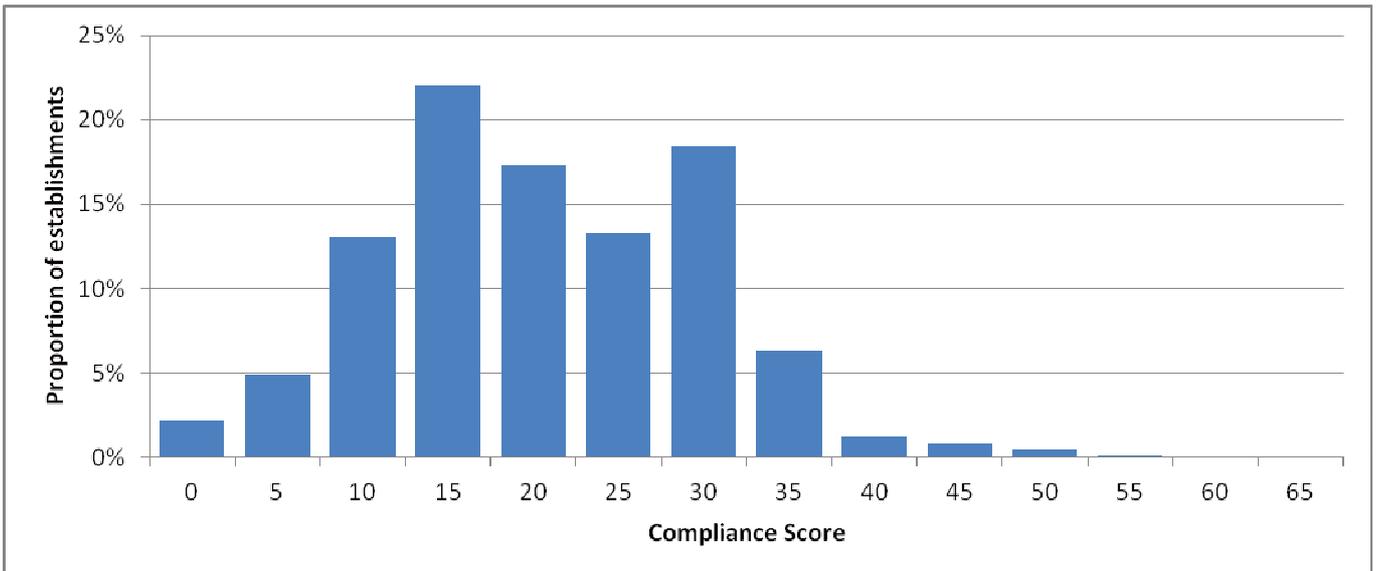


21. The proposed changes would recognise those food establishments that comply with the hygiene regulations. The level of establishments compliance is considered and rated by the following three elements (each factor has a range of scores, with 0 indicating the best possible score):

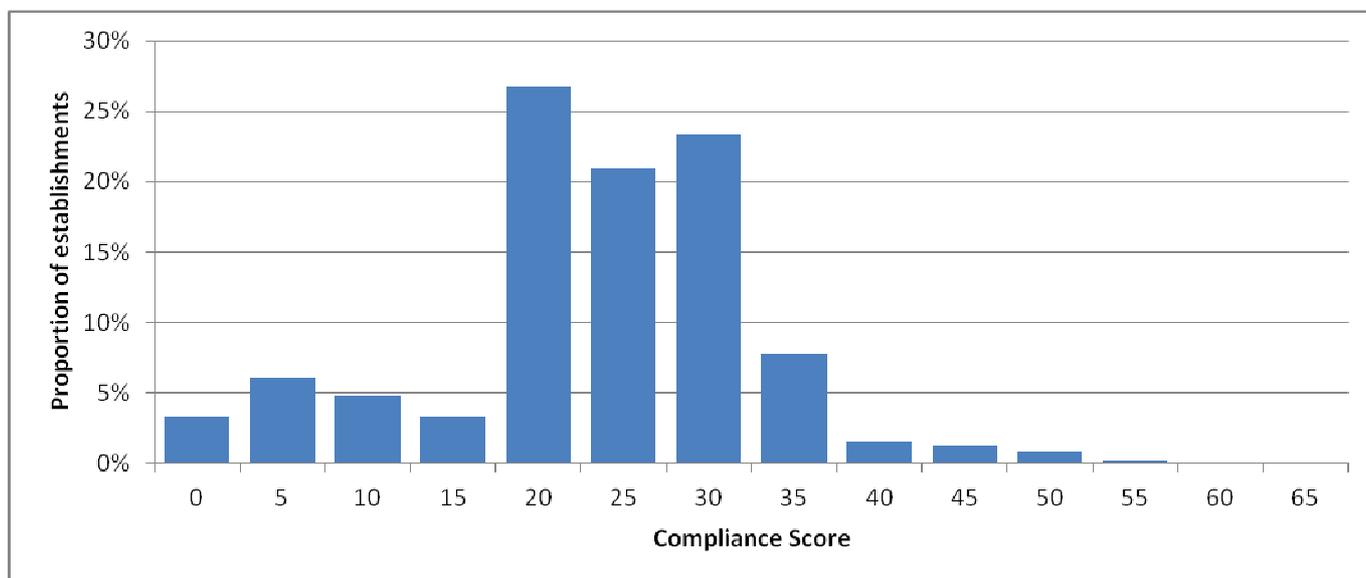
- I. the level of current compliance with food hygiene and safety procedures (0-25);
- II. the structure of the establishment(0-25); and
- III. confidence in management/control procedures (0-30)

22. This change would result in a larger percentage of establishments with total compliance scores (0-15) being assigned a rating of band “D”, while those with poorer compliance scores remaining in Band “C” (see Figures 5 & 6).

**Figure 5: Band “C” establishments: compliance scores under the current banding**



**Figure 6: Band “C” establishments: compliance scores under the proposed banding**



23. The proposed amendment would result in an estimated 4.7% reduction of interventions a year within the UK. The effect on different establishment types can be seen in the figure below. The figure 7 shows the effect on the intervention frequencies for the different food establishment types, by comparing the current intervention data with data generated if the proposed amendments were made. The application of this amendment would have an immediate effect on the intervention plans of a local authority.

**Figure 7: Reduction in intervention frequency by establishment type**

Risk Band	Distributors / Transporters		Importers / Exporters		Manufacturers and Packers	
	Currently	After Changes	Currently	After Changes	Currently	After Changes
A	50	50	4	4	1,224	1,224
B	105	105	13	13	2,701	2,701
C	738	304	71	32	3,528	2,419
D	915	1,240	83	112	1,293	2,125
E	1,680	1,680	163	163	1,583	1,583
Total	3,487	3,379	334	324	10,329	10,051

Risk Band	Primary producers <sup>4</sup>		Restaurants and Caterers		Retailers	
	Currently	After Changes	Currently	After Changes	Currently	After Changes
A	34	34	4,724	4,724	862	862
B	83	83	28,232	28,232	3,018	3,018
C	252	141	128,227	82,338	20,588	10,558
D	329	412	33,121	67,538	13,847	21,369
E	816	816	35,330	35,330	21,010	21,010
Total	1,514	1,486	229,634	218,162	59,325	56,817

24. The FSA sees these proposed changes as being consistent with its intention to deliver improved risk and outcome-based regulatory enforcement practice. Those establishments with poor compliance scores pose a greater risk to public health as they fail to implement adequate controls to mitigate potential risk. This proposed change would result in reduced intervention frequencies for broadly compliant establishments that pose less of a risk to public health, while freeing up LA resources to

<sup>4</sup> The frequency of intervention for primary production is now determined by the visit frequency set for the purposes of food standards as it is undertaken by trading standards officers.

focus their efforts appropriately at those businesses that pose a significant risk, such as establishments where poor hygiene practices result in cross contamination.

## **Proposed Amendment 2**

### **Division of enforcement responsibilities in co-located meat establishments in Great Britain**

25. EU Regulation 852/2004 lays down general food hygiene rules which apply to all food establishments, while EU Regulation 853/2004 provides specific hygiene rules for Products of Animal Origin (POAO).
26. Responsibility for executing and enforcing the EU hygiene legislation is divided between the FSA and LAs as set out in Regulation 5 of the Food Hygiene (England) Regulations 2006 (similar legislation applies in the devolved countries). In the case of food business operators (FBOs) whose operations fall to both Regulation 852/2004 and Regulation 853/2004, Regulation 5(2) provides that –
  - I. the FSA shall execute and enforce the Hygiene Regulations in so far as the operator concerned is carrying out operations in relation to (i) a slaughterhouse, (ii) a game handling establishment (GHE), or (iii) a cutting plant (CP); and
  - II. The FSA or the food authority in whose area the FBO carries out his operations shall execute and enforce the Hygiene Regulations in so far as the operator concerned is carrying out operations in relation to any establishment that is not specified in sub-paragraph (a).
27. The FSA is designated as having enforcement responsibility for the Hygiene Regulations in any establishment where both Regulation 852/2004 and Regulation No 853/2004 apply to the FBO's operations, while the LA has this capability only in such establishments which are not approved slaughterhouses, game-handling establishments or cutting plants.
28. The flexibility provided by Regulation 5(2) (b) allows for enforcement in establishments where a combination of meat, other products of animal origin (OPOAO) and/or non products of animal origin (non – POAO) are handled to be arranged between the FSA and the LA on a case-by-case basis at the request of the FBO.
29. It is proposed to make the current policy more flexible in cases where responsibility for enforcement of food hygiene rules in co-located establishments is divided between a LA and the FSA. This occurs in situations where a combination of meat, other products of animal origin (OPOAO) and/or non-products of animal origin (non-POAO) are handled or produced in establishments. This flexible policy would be applied only on a case-by-case basis at the request of the (FBOs) in Great Britain.
30. Enforcement in stand-alone establishments producing minced meat, meat preparations, mechanically separated meat, meat products, rendered animal fats and greaves, treated stomachs, bladders and intestines, gelatine and/or collagen is the responsibility of the local authority. However, the current policy, as set out in the Code, is that, where a slaughterhouse, GHE or CP is also producing any of the above products, the FSA will take sole responsibility for enforcement at the establishment
31. In the light of the flexibility in the division of enforcement responsibilities the FSA proposes that the current policy be extended so that FBOs may request that the FSA becomes the sole enforcement body in relation to food operations, to which either Regulation 852/2004 or Regulation 853/2004 applies, except co-located establishments involved in retail activity which would remain under LA control. However, such a change of enforcement at any particular establishment would be must be subject to mutual agreement between the FBO, the FSA and the LA that would normally be responsible for enforcement at the establishment in respect of any OPOAO operations subject to Regulation 853/2004 or activities subject to Regulation 852/2004 except those of retail. In these

cases, the LA will consider what, if any, future information it wants from the FSA about the establishment.

32. The aim of this amendment is, wherever possible; to avoid dual enforcement of official controls in establishments where meat and other food activities are co-located. This change would apply only to enforcement of hygiene controls. Other requirements of food law will continue to be enforced by other bodies, such as local trading standards teams upon referral by the FSA when non-compliance is observed or when other regulators have scheduled interventions.

### **Sectors and Groups affected**

33. Under **Proposed Amendment 1**, LAs that are responsible for intervention rating food establishments for hygiene purposes will need to read and familiarise themselves with the amended scheme. LAs and lower risk food establishments will be subject to a reduced intervention requirement.
34. Under **Proposed Amendment 2**, LAs and the FSA, as competent authorities that undertake official control activities will see a potential reduction or increase in official control activities. Food establishments that adopt this flexibility should see a reduction in the number of separate official control visits undertaken by different competent authorities.

## **Option Appraisal**

### **Option 1: Do nothing, the Code would not be amended and the current system would continue**

#### **Costs and Benefits**

35. There are no costs and benefits associated with this option; this is the baseline against which all other options are appraised.

### **Option 2: Improve efficiency in delivery through the amendments to the existing scheme within the Code of Practice to reduce the regulatory burden and extend existing flexibilities**

#### **Costs**

##### **Costs to industry:**

36. There are no identified costs to industry in relation to either of the two proposed amendments as food establishments do not need to familiarise themselves with the contents of the Code as it places requirements on LAs. None of the proposed amendments will lead to additional costs for industry. As a result of the change, some businesses will be subject to a higher inspection frequency, whilst others will be subject to a lower frequency. The overall impact of the proposed change is however a reduction in the total number of inspections (both overall and within each establishment category).

##### **Costs to Local Authorities:**

37. Under **Proposed Amendment 1**, there will be a familiarisation cost to LA for all staff involved in determining intervention frequency of food establishments. FSA enforcement data shows that there were 2,709 full time equivalent LA staff engaged in UK food law enforcement (as at 31<sup>st</sup> March 2012), split over 406 LA in the UK (326 in England, 32 in Scotland, 22 in Wales and 26 in Northern Ireland).
38. We estimate that an Environmental Health Officer (EHO) will invest 1 hour reading and familiarising themselves with how Annex 5 should be applied to an establishment. The familiarisation cost is monetised by multiplying the time it takes for familiarisation (1hr) by the

wage rate of an EHO (£20.46<sup>5</sup>) and the number of EHOs required for familiarisation (2,709). This results in a total familiarisation cost to Local authorities in the UK of £55,426.

39. In order for one-off costs to be compared to annual costs on an equivalent basis across the time span of the policy, one-off costs are converted into Equivalent Annual Costs (EACs) by dividing the one-off cost by an annuity factor.<sup>6</sup> The total one-off familiarisation cost to UK enforcement in this proposal is £55,426 which yields an equivalent annual cost of £6,439 over a ten year period.

40. Under **Proposed Amendment 2** there are no identified costs to LAs as the only change from the amendment is a decrease in their regulatory activity.

## **Benefits**

### **Benefits to industry: Reduced Frequency of Interventions**

#### *Benefits to Industry under Proposed Amendment 1*

41. There will be benefits to industry due to a reduction in the frequency of intervention at lower risk food establishments. It is estimated that the proposed change will result in the reduction in the number of interventions per establishment category (see Figure 8 below). Based on current estimations there are 86,265 food establishments operating in the UK that would be directly affected by the proposed change.

42. Figure 8 provides an estimated average time for an intervention to be undertaken at the different food establishment, broken down by category. The right hand column shows the reduction in intervention frequency by establishment type. While the a range of interventions exist for the purposes of this impact assessment the time taken is based upon an ‘inspection’ intervention as these are the type most commonly employed by local authorities (derived from Figure 7).

**Figure 8: Intervention times per establishment type**

<b>Establishments type</b>	<b>Time to undertake an intervention</b>	<b>Reduction (number of interventions)</b>
Primary Producers	Frequency of intervention is determined under a separate system so will not be affected by this change.	28
Manufacturers and Packers	7 hours	278
Importers/Exporters	1 hour	10
Distributors/Transporters	3 hours	108
Retailers	1 hour	2,508
Restaurants and Caterers	3 hours	11,472

43. The benefit to industry from a reduction in the number of interventions can be monetised as a time saving. Normally an establishment manager needs to accompany the LA officer during an intervention and the reduction in interventions therefore represents a time saving since the establishment manager can now focus on establishment activities instead.

<sup>5</sup> Wage cost from the Annual Survey of Household Earnings (2011) (<http://www.ons.gov.uk/ons/guide-method/surveys/list-of-surveys/search/index.html?survey=Annual+Survey+of+Hours+and+Earnings+%28ASHE%29&content-type=Dataset&content-type=Reference+table&sortDirection=DESCENDING&sortBy=pubdate3>). Median hourly wage of an ‘Environmental health officer’ is used and is £15.74, plus 30% overheads totalling £20.46.

<sup>6</sup> The annuity factor is essentially the sum of the discount factors across the time period over which the policy is appraised. The equivalent annual cost formula is as follows:

$$a_{t,r} = \sum_{j=0}^{t-1} \prod_{i=0}^j \left( \frac{1}{1+r_i} \right)$$

44. To calculate the time saving per sector we multiply the time it takes to undertake an intervention in that sector by the sector reduction in interventions and by the wage rate of a establishments manager (£26.10<sup>7</sup>). Summing up over all sectors we obtain a per annum time saving to industry of £1,023,224, which represents a total cost saving of £8.8m (NPV over 10 years), see Figure 9 below. To note is that this is an underestimate as we currently do not have data on inspection times for primary producers.
45. The proposed amendment should not have any significant positive or negative effect on competition between firms.
46. The establishment group most affected by this amendment is restaurants and caterers, the majority of which are micro or small/medium enterprises. This will result in a proportionally greater benefit for compliant micro or S/MEs compared to the wider food industry.
47. While this amendment represents a reduction in the number of interventions undertaken at food establishments as regards to official control activity. Some of the resource saved by this amendment will be redirected to other parts of the industry as regulatory activity while the majority will not involve an establishment manager devoting time to regulatory activities. Therefore a limited number of non compliant establishments will experience an increase in regulatory or enforcement activity but this is something we are not currently able to quantify.

#### Benefits to Industry under Proposed Amendment 2

48. While the FSA believes that this will result in a reduction to the number of official control visits at establishments that adopt this flexibility, we have no basis upon which to estimate the numbers of establishments that might seek to use this flexibility. Given that the circumstances and processes undertaken in each case are unique, it is impossible to estimate the average cost saving.

#### **Benefits to Local Authorities: More Efficient Resource Allocation**

##### Benefits to Local Authorities under Proposed Amendment 1

49. LAs will carry out fewer interventions at low risk establishments which mean that they can focus their time and resources on higher risk establishments and enable them to undertake more activities to support these establishments. This represents an efficiency saving. Monetising this efficiency saving is however difficult.

##### Benefits to Local Authorities under Proposed Amendment 2

50. While the FSA believes that this amendment will result in a better resource allocation, so that enforcement authorities can focus on higher risk establishments, this is a saving that we are unable to monetise.

#### **Benefits to Food Standards Agency:**

51. While the FSA believes that this will result in a reduction to the number of official control visits at establishments that adopt this flexibility, we have no basis upon which to estimate the numbers of establishments involved. Given that the circumstances and processes undertaken in each case are unique, it is impossible to estimate the average cost saving.

#### **Summary of Costs and Benefits under Option 2**

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<sup>7</sup> Wage rate obtained from The Annual Survey of Household Earnings (2011), <http://www.ons.gov.uk/ons/publications/reference-tables.html?edition=tcM%3A77-235202>. Median hourly wage of a production manager (£20.08 which has been uprated by 30% to cover overheads: £20.08 \* 1.3 = £26.10

52. As can be seen from Figure 9 below, policy option 2 has a total net benefit of £8,752,169 (Net Present Value over 10 years).

**Figure 9: Summary of Costs and Benefits under Option 2**

	Year 0	1	2	3	4	5	6	7	8	9	Total	EAC/p.a.	PV
<b>Costs</b>													
Familiarisation LA	55,426	0	0	0	0	0	0	0	0	0	55,426	6,439	55,426
<b>Benefits</b>													
Industry Time Saving	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	10,232,244	1,023,224	8,807,595
<b>Net Impact</b>													
Net Benefit	967,798	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	1,023,224	10,176,818	1,016,785	8,752,169

## Consultation

53. The FSA's proposals will now to be the subject of a formal written consultation for a period of twelve weeks. The FSA will be seeking the views of consumers, consumer groups, charities, industry stakeholders and representatives, and enforcement authorities, their representatives and professional bodies.

## SPECIFIC IMPACT TESTS

[As you develop your proposal you need to think about all of the following specific impact tests, but they may not all be relevant to your policy. Click on the relevant box to show which are. For those shown as relevant, include the heading and relevant text in the Evidence Base. When you have completed the table, delete this paragraph but keep the following Note and the table in your IA.]

**Note:** the Health and Wellbeing specific impact test is not in the list, because the whole of an FSA IA focuses on food safety in the health context.

Type of test and link to guidance (Double click on each of the headings to follow link)	Click on a box for EACH row to show if the test is relevant or not:	
	Relevant	Not relevant
<a href="#">Competition assessment</a>	<input checked="" type="checkbox"/> See paragraph 46	<input type="checkbox"/>
<a href="#">Small firms impact test</a>	<input checked="" type="checkbox"/> See paragraph 47	<input type="checkbox"/>
<b><a href="#">Sustainability:</a></b>  Economic impact  Social impact  <a href="#">Environmental impact</a>	<input checked="" type="checkbox"/>  <input checked="" type="checkbox"/>  <input checked="" type="checkbox"/>	
<a href="#">Carbon impact</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<a href="#">Equality impact</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<a href="#">Justice impact</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<a href="#">Rural proofing</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<a href="#">Human rights</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<a href="#">Privacy impact</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<a href="#">Creation of new criminal offence</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<a href="#">Impact on powers of entry</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>